

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

David K. KOVALIC *et al.*

Appln. No.: 10/767,701

Filed: January 29, 2004

For: Recombinant Polypeptides Associated with Plants

Conf. No.: 6459

Art Unit: 1631

Examiner: Shubo ZHOU

Atty. Docket: 16517.311

Petition to Amend Priority Under 37 C.F.R. § 1.78(a)(3)

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicants hereby petition to amend the priority claim in the above-captioned U.S. application under 37 C.F.R. § 1.78(a)(3). Authorization to charge the official fees for this Petition is given in the accompanying transmittal letter. A duplicate copy of this Petition is enclosed.

On January 29, 2004, the above-captioned U.S. Application (the “’701 Application”) was filed and included a paragraph claiming priority to, and incorporating by reference, several applications, including U.S. Application Nos. 09/684,016 (the “’016 Application”) and 09/850,147 (the “’147 Application”), a copy of which paragraph is attached hereto as Exhibit 1. Subsequently, it was determined that the ‘701 Application shares common subject matter with additional applications, which this petition requests to add to the priority claim.

In the Application Data Sheet filed herewith (the “ADS”), Applicants have amended the claim for priority of the ‘701 Application to reflect the additional priority data determined by Applicants. As such, Applicants believe that the present Application is entitled to the priority claims as submitted in the ADS and respectfully request that the information in the ADS be entered.


As more specifically set forth in the ADS, Applicants hereby petition to add a claim of priority in the '701 Application to U.S. Application Serial No. 09/654,617, filed September 5, 2000, and to U.S. Provisional Application Serial No. 60/202,213, filed May 8, 2000, under 37 C.F.R. § 1.78(a)(3). Applicants note that priorities listed in the Application Data Sheet submitted herewith reflect that the '016 Application is a continuation-in-part of U.S. Application No. 09/654,617, filed September 5, 2000, and the '147 Application claims priority to U.S. Provisional Application No. 60/202,213, filed May 8, 2000. Accordingly, the present Application is a continuation in part of U.S. Application No. 09/684,016 filed October 10, 2000, which is a continuation in part of U.S. Application No. 09/654,617 filed September 5, 2000. This Application is also a continuation in part of U.S. Application No. 09/850,147 filed May 8, 2001, which claims the benefit of U.S. Provisional Application No. 60/202,213 filed May 8, 2000.

Applicants assert that the entire delay between the date for making a priority claim under 37 C.F.R. § 1.78(a)(2)(ii) and the date such priority claim was made was unintentional, and respectfully request that the above-captioned U.S. Application be amended to reflect the priority for the invention now claimed.

Should the Commissioner require additional information, he is invited to contact the undersigned at the number provided below.

Authorization to charge the fee for submission of this Petition is given in the accompanying transmittal letter.

Respectfully submitted,



Holly Logue Prutz (Reg. No. 47,755)
David R. Marsh (Reg. No. 41,408)

Date: May 25, 2007

ARNOLD & PORTER LLP
555 Twelfth Street, NW
Washington, D.C. 20004-1206
(202) 942-5000 telephone
(202) 942-5999 facsimile

Correspondence Address:

MONSANTO COMPANY
800 N. Lindbergh Blvd.
Mailzone E2NA
St. Louis, MO 63167
(314) 694-3602 telephone
(314) 694-9009 facsimile